

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Rifat and Kimberly Sufi,
Petitioners-Appellants.

v.

Dubuque County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-31-0057
Parcel No. 1409188010

On December 14, 2011, the above captioned appeal came on for telephone hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants, Rifat and Kimberly Sufi, were self-represented. The Dubuque County Board of Review designated Assistant County Attorneys Lyle Galliard and Mark Hostager as its legal representatives, and Lyle Galliard represented it at hearing. Both parties relied on the record and did not submit additional evidence. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Rifat and Kimberly Sufi are the owners of a residential, single-family property located at 604 Melinda Drive, Peosta, Iowa. The property is a one-story, brick home built in 2002, and has 1489 square feet of total living area. The property has a full, walk-out basement with 920 square feet of living-quarter finish. Additionally, the dwelling has a 576 square-foot, attached brick garage; a 126 square-foot open front porch; a 352 square-foot deck; and a 352 square-foot patio. The site is 0.234 acres.

The Sufis protested to the Dubuque County Board of Review regarding the 2011 assessment of \$207,020, which was allocated as follows: \$24,230 in land value and \$182,790 in improvement value. Their claim was based on the single ground that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a).

The Board of Review denied the protest.

The Sufis then appealed to this Board reasserting their claim and asserting the correct assessment should be \$196,575, which is a 1.8% increase from the 2010 assessment.

On their protest form to the Board of Review, the Sufis listed five properties as equity comparables and provided the following information:

	Assessed At:
Parcel #1409188011 Royal Oaks Second Add Lot 13 (586 Melinda Dr. Peosta, IA 52068)	\$199,630 (4.5% increase)
Parcel #1409177021 Royal Oaks Second Add Lot 33 (587 Melinda Dr. Peosta, IA 52068)	\$183,140 (2.1% increase)
Parcel #1409177020 Royal Oaks Second Add Lot 32 (605 Melinda Dr. Peosta, IA 50268)	\$199,480 (1.8% increase)
Parcel #1409188009 Royal Oaks Second Add Lot 15 (620 Melinda Dr. Peosta, IA 50268)	\$169,310 (3.4% increase)
Parcel #1409177019 Royal Oaks Second Add Lot 31 (621 Melinda Dr. Peosta, IA 50268)	\$182,850 (3.9% increase)

Rifat Sufi testified he believes he is inequitably assessed because the five properties he listed, all located in his subdivision and on his street, received increases at a lower rate than his property. His property assessment increased 7.2% from 2010 to 2011.

None of the five equity comparables were recent sales, and Rifat did not provide a market value for any of the properties to establish a ratio analysis. He relied solely on the fact that neighboring assessments did not increase at the same rate as his assessment.

Dubuque County Assessor David Kubik testified that his office has seen slight increases in market values in Dubuque County over the last four years. As such, a county-wide reappraisal of residential and ag dwellings took place in 2011, updating properties' assessments from the 1998 REAL PROPERTY APPRAISAL MANUAL to the 2008 REAL PROPERTY APPRAISAL MANUAL. Some properties saw an increase in value as a result. Kubik believed this was due, in part, to a difference in cost estimates between the manuals as well as converting software. Additionally, Kubik stated that in the

Peosta area a 0.99 map factor was applied to all the properties, essentially reducing the values by 1%. This procedure was done uniformly to all residential properties and the Sufis were not singled out or treated differently.

Kubik noted there were differences between the subject property and the comparables offered by the Sufis that may explain why Sufis' property has a higher value. For example, the subject property has an all brick exterior, a walk-out basement, and basement finish. Whereas all five equity comparables were frame construction; only two had walk-out basements; and only one had basement finish. Lastly, only one of the comparables had a similar 3-5 grade like the subject property. These differences could result in increased costs to the subject property, which may not be reflected in the equity comparables.

The Board of Review did not provide any evidence.

The Sufis' focus was exclusively on the differences in the percent of increase of neighboring properties, rather than being focused on the equity of those comparable property assessments to the subject property's assessment. Based on the foregoing, we find insufficient evidence has been provided to demonstrate the subject property is inequitably assessed.

Conclusions of Law

The Appeal Board applied the following law:

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

The Sufis provided five properties they considered to be equity comparables. However, they failed to show the market values of these properties to establish a ratio analysis demonstrating inequity. Therefore, the Sufis did not assert their property was assessed in a manner that was not uniform. The Sufis did not show inequity under either the tests of *Maxwell* or *Eagle Foods*.

THE APPEAL BOARD ORDERS the assessment of Rifat and Kimberly Sufi's property located at 604 Melinda Drive, Peosta, Iowa, of \$207,020, as of January 1, 2011, set by the Dubuque County Board of Review, is affirmed.

Dated this 11 day of January, 2012.

Karen Oberman
Karen Oberman, Presiding Officer

Richard Stradley
Richard Stradley, Board Chair

Jacqueline Rypma
Jacqueline Rypma, Board Member

Cc:

Rifat and Kimberly Sufi
604 Melinda Drive
Peosta, Iowa 52068
APPELLANT

Lyle Galliant/Mark Hostager
720 Central Avenue
Dubuque, Iowa 52001
ATTORNEYS FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1-11</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>